
Judiciary Committee

HB 1798

Title: An act relating to fees and costs on appeals of land use decisions.

Brief Description: Revising the conditions for awarding fees and costs on appeals of land use decisions.

Sponsors: Representatives Eddy, Lantz, Dickerson and B. Sullivan.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Restricts awards of prevailing party fees and costs in appeals of land use decisions by requiring a finding that the nonprevailing party advanced the appeal, or a defense to the appeal, without legal or factual basis.

Hearing Date: 2/7/07

Staff: Bill Perry (786-7123).

Background:

Washington generally follows what is known as the American Rule with respect to the payment of the costs of a lawsuit. That is, each party is required to bear its own costs in bringing or defending an action. Some statutes, however, specifically provide for the prevailing party in an action to recover its own reasonable attorneys' fees and other costs from the nonprevailing party. One such provision applies to the appeal of certain land use decisions.

If a land use decision is made by a county or city, the decision can be appealed administratively to the county or city itself, or in some cases to the shorelines hearing board. The decision made at this administrative level can then be appealed through the judicial system. If the party that prevailed at the administrative level continues to prevail in all subsequent appeals, then that party can recover reasonable attorneys' fees and costs from the nonprevailing party.

Various parties, sometimes on opposite sides of an issue, may make the initial administrative appeal of a county or city decision. Whatever party appeals, the county or city is likely to become the initial prevailing party because that initial appeal is to the county or city itself.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill:

An additional requirement is added for qualification as the prevailing party entitled to recover attorneys' fees and costs in a land use appeal. Before the nonprevailing party is liable for fees and costs, the court must find that the nonprevailing party advanced the appeal or a defense to the appeal without legal or factual basis.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.